

Defendant.

Case No. _____

1. Plaintiff commenced this action by filing a complaint against Ally in the Magistrate Court of Gwinnett County, Georgia Civil Action No. 2022CV368495, on March 27, 2023.

2. Ally was served with the Complaint on April 11, 2023. Attached as **Exhibit “A”** and incorporated by reference are true and correct copies of all pleadings and papers filed in this action in the Magistrate Court of Gwinnett County, Georgia. Ally knows of no other pleadings or papers that have been served or filed with the Magistrate Court of Gwinnett County.

3. Plaintiff’s Complaint arises out of his vehicle loan account with Ally and communications between the parties related to such account. In the Complaint, Plaintiff appears to allege that Ally violated the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et. seq.* and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692. *See generally* Ex. A.

JURISDICTION AND VENUE

4. 28 U.S.C. § 1331 provides that the District Court shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

5. There is jurisdiction over this removed action pursuant to 28 U.S.C. § 1441 because this action could have been originally filed in this Court pursuant to 28 U.S.C. § 1331. Specifically, this Court has jurisdiction over this action because Plaintiff’s causes of actions, which allege violations of the Fair Credit Reporting Act,

15 U.S.C. § 1681 *et. seq.* and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, arise under federal law. *See* Ex. A.

6. Venue is proper in this Court under 28 U.S.C. §§ 90(a)(2), 1441(a), and 1446(a) because Gwinnett County, the county where the state court action was filed, falls within the United States District Court for the Northern District of Georgia, Atlanta Division. *See* 28 U.S.C. § 90(a)(2).

PROCEDURAL REQUIREMENTS FOR REMOVAL

7. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty days of Ally's receipt of service of the state court Complaint.

8. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders in the state court action are attached hereto as **Exhibit A**.

9. Ally has not answered or moved in response to Plaintiff's Complaint and expressly reserves all defenses to Plaintiff's claims, including, but not limited to, all defenses based in law, equity, statute, constitution, jurisdiction, or immunity, any other defense or avoidance, and does not waive any defense by this removal.

10. Ally will file a copy of this Notice of Removal with the clerk of the Magistrate Court of Gwinnett County, the state court in which this action is currently

pending, as required by 28 U.S.C. § 1446(d). A copy of this Notice of Removal is also being served upon Plaintiff as further required by 28 U.S.C. § 1446(d).

WHEREFORE, Ally respectfully requests that the entire action referred to hereinabove proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, and that no further proceeding be held in said case in the Magistrate Court of Gwinnett County, Georgia.

Respectfully submitted, this 11th day of May, 2023.

/s/ Avery G. Carter

Avery G. Carter

Georgia Bar No. 789576

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Attorney for Defendant

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1D

Pursuant to LR 7.1D, counsel for Defendant certifies that the foregoing document has been prepared in Times New Roman 14-point font, one of the fonts approved in LR 5.1(B).

This 11th day of May, 2023.

/s/ Avery G. Carter

Avery G. Carter

Georgia Bar No. 789576

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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. I further certify that I have served a copy of the within and foregoing by depositing a true and correct copy by the United States mail, with adequate postage pre-paid, to the following:

Brian Lajock Gilbert
1697 N Expressway
Griffin, GA 30223

This 11th day of May, 2023.

/s/ Avery G. Carter

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